

This letter concerns the low 1% State rate of tax applicable to certain food. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

March 28, 2011

Dear Xxxxx:

This letter is in response to your letter dated January 7, 2011, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is requesting a written opinion as to how sales tax would be charged on liquor filled candies.

I have attached information about the candies in question.

Thank you in advance for your time and assistance.

DEPARTMENT'S RESPONSE:

All gross receipts from sales of tangible personal property in Illinois are subject to Retailers' Occupation Tax and Use Tax unless an exemption is specifically provided. Qualifying food, drugs, medicines and medical appliances are not taxed at the general merchandise rate of 6.25%. These items are taxed at a lower state rate of 1% plus any applicable local taxes. See 86 Ill. Adm. Code 130.310 and 130.311.

Food that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) is taxed at the rate of 1% plus applicable local taxes. Food is defined as any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, unsweetened bottled water and ice. Beginning September 1, 2009, all candy is taxable at the State 6.25% general merchandise rate. Candy is

defined as a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. Candy does not include any preparation that contains flour or requires refrigeration.

The law that changed the tax rate on candy did not distinguish between candy with and without liquor filling.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Richard S. Wolters
Associate Counsel

RSW:msk